

## REMARKS

This Response is submitted in response to the Office Action mailed on January 25, 2003. The Office Action rejects pending Claims 1-3 and 6-20 under 35 U.S.C. § 103. Specifically, Claims 1, 9, and 13 are rejected under 35 U.S.C. § 103 as being unpatentable over *Hare* in view of *Lassoff*. Claims 3, 6-8, 10, 14, 15, 17, and 18 are rejected under 35 U.S.C. § 103 as being unpatentable over *Hare* in view of *Weinthrop*. Claims 2 and 12 are rejected under 35 U.S.C. § 103 as being unpatentable over *Hare* in view of *Ko*. Claim 11 is rejected under 35 U.S.C. § 103 as being unpatentable over *Hare* in view of *Mogelonsky*. Claim 16 is rejected under 35 U.S.C. § 103 as being unpatentable over *Hare* in view of *Weinthrop* and further in view of *Mogelonsky*. Claims 19 and 20 are rejected under 35 U.S.C. § 103 as being unpatentable over *Hare* in view of *Schwartz*.

Applicant respectfully submits that the rejections are clearly improper as a matter of law and fact. Of the claims pending, Claims 1, 9, 14, and 19 are independent. The principal reference that has been used to reject the claims is *Hare*. Clearly, *Hare* neither discloses nor suggests a number of claimed features. In the first instance, each of these claims requires a dry erase board. *Hare* fails to disclose a dry erase board. Indeed, the Patent Office states on page 2 “*Hare* fails to disclose that the folder comprises a dry erase board.”

With respect to Claims 1 and 9, the Patent Office relies on *Lassoff* as disclosing a dry erase board. With respect to Claim 14 which also requires a dry erase board, the Patent Office only relies on *Weinthrop* in combination with *Hare*. *Weinthrop* does not disclose a dry erase board. Thus, neither of the references relied on to reject Claim 14 discloses a dry erase board. Therefore, as a matter of law and fact, the combination of these references fails to disclose or suggest one claimed element of independent Claim 14, and thereby Claims 15-18 that depend therefrom. Accordingly, the rejection of Claims 14-18 under 35 U.S.C. § 103 is improper for this reason alone and the rejection must be withdrawn.

With respect to independent Claim 19, the Patent Office once again relies on *Hare* (which the Patent Office admits on page 2 does not disclose a dry erase board) in combination with *Schwartz*. *Schwartz* clearly fails to disclose or suggest a dry erase board. Accordingly, Claim 19, which claims in part “a method of using a dry erase board” clearly is not disclosed nor suggested by these references. Therefore, as a matter of law and fact, each of Claims 19 and 20 have been improperly rejected under 35 U.S.C. § 103 in view of *Hare* and *Schwartz*. Therefore, Applicants respectfully request the rejection be withdrawn.

With respect to independent Claims 1 and 9, in addition to requiring a dry erase board, Claim 1 requires that the body has at least one bent end capable of removably securing a sheet of paper to the body. The Patent Office relies on *Hare* as disclosing this element. *Hare* does not disclose this element. Indeed, a review of the figure of *Hare* demonstrates that the article (4) is not removably secured to the body by the folded end. Instead, the article lies flat between the two surfaces. Nor, Applicant respectfully submits, if *Hare* does include a bent end, does the bent end have the claimed capability. In this regard, contrary to the Patent Office’s assertions, *Hare* does not disclose a semi-rigid substrate. The material of *Hare* is designed to be flexible.

In contrast to *Hare*, the claimed invention provides a semi-rigid material which is capable of supporting a sheet of material. For example, see Figures 1-4 as well as Figures 6 and 7. The Patent Office states that Applicant has not defined the term “semi-rigid.” However, contrary to the Patent Office’s suggestion, the fact that Applicant has not defined semi-rigid does not mean that this term is not entitled to some claimed weight. Instead, one needs to look to how that term would be interpreted in view of one skilled in the art. For example, Webster’s 9<sup>th</sup> New Collegiate Dictionary defines semi-rigid as follows: “rigid to some degree or in some parts.” *Hare* clearly does not disclose a semi-rigid device as *Hare* discloses a folder made of a “flexible” material. Flexible is the exact opposite of rigid. A flexible material is not rigid to some extent or in some parts. Therefore, this is a further claimed element which is missing from *Hare* and is present in independent Claims 1 and 9.

It is also important to note that it is the rigidity of the material of the claimed invention that allows the bent end to support or removably secure a piece of paper. *Hare* fails to disclose such a structure. Therefore, *Hare* fails to disclose the bent end of independent Claim 1.

Claim 9 requires providing a transparent semi-rigid body having opposed dry erasable surfaces and bending a side of the body to create an area for receiving a sheet. Nowhere does the Patent Office even discuss this limitation, let alone do any of the references suggest same. Applicant respectfully requests the Patent Office to point out where any of the cited references disclose a method of manufacturing a product wherein a dry erase semi-rigid material is bent to create an area for receiving a sheet. In the alternative, Applicant respectfully requests the Patent Office point out where this feature is even suggested. This is another claimed feature missing from the cited references.

Lastly, Applicant respectfully submits that the cited references fail to disclose or suggest opposed dry erasable surfaces that a user can write on a front side and a back side of the body at the same time. Due to the flexible nature of *Hare*, the only way the structure can be written on is if one of the surfaces is supported on a structure. This is due to the flexible nature of *Hare*. Thus, only one side can be written on at a time. In contrast, Applicant's claimed invention provides a semi-rigid structure which can be supported on a side thereof or a top or bottom edge and written on both the front and back surface. *Hare*, due to its flexible structure, does not provide such a device.

Accordingly, Applicant respectfully submits there are a plethora of claimed elements which are neither disclosed nor suggested by *Hare* or any of the cited references. Furthermore, Applicant respectfully submits that it is only through hindsight reconstruction that the Patent Office can even attempt to reject any of the claims based on an obviousness rejection. Therefore, Applicant respectfully requests that the pending rejections be withdrawn and the claims passed to allowance.

For the foregoing reasons, Applicant respectfully requests reconsideration of this patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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